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PATENT
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Assistant Commissioner for Patents
Washington, D.C. 20231

On May 5, 2003

TOWNSEND and TOWNSEND and CREW LLP

By: Paul Paul Jones

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steinunn Baekkeskov et al.

Application No.: 08/838,486

Filed: April 7, 1997

For: IMPROVED METHODS FOR THE
DIAGNOSIS AND TREATMENT OF
DIABETES

Examiner: G. Ewoldt

Art Unit: 1644

DECLARATION OF JOE
LIEBESCHUETZ

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Joe Liebeschuetz, state as follows:

(1) The present application is a divisional of 08/452,053 filed May 25, 1995, which is a continuation of 08/174,550, filed December 28, 1993, which is a continuation of 07/756,207 filed September 6, 1991, which is a continuation-in-part of 07/579,007, filed September 7, 1990. I have been responsible for prosecution of these applications for several years.

(2) I have reviewed Atkinson et al. US 5,762,937 and US 6,001,360. The '360 patent derives from 07/474,598 filed June 7, 1995, which is a continuation-in-part of application USSN 08/219,816 filed Mar. 28, 1994 now U.S. Pat. No. 5,762,937, which is

a continuation of USSN 08/093,821, filed Jul. 19, 1993, now abandoned, which is a continuation of USSN 08/007,406, filed Jan. 22, 1993, now abandoned, which is a continuation of USSN 07,569,324, filed Aug. 17, 1990, now abandoned, which is a continuation-in-part of USSN 07/427,051, filed Oct. 15, 1989, now abandoned, which is a continuation-in-part of USSN 07/283,633, filed Dec. 13, 1988, now abandoned. However, the earliest two filed of these applications, '051 and '633, contain no disclosure relevant to the present claims, specifying methods of using GAD as an analytical reagent. It is noted that the '051 and '633 misidentified the autoantigenic component of the pancreatic 64 kDa antigen as being a serine kinase, rather than GAD. Thus, the '360 and '937 patents at best derives priority from the '324 application filed **August 17, 1990**.

(3) In my opinion, the inventors of the present application have a basis for judgment relative to the inventors of the US 5,762,937 and US 6,001,360 in an interference proceeding.

Respectfully submitted,



Joe Liebeschuetz
Reg. No. 37,505

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